

**MARK CONKLIN**

STATE OF NEW YORK  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
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**CHRISTIAN POWELL,**

Plaintiff,

- vs -                   **Index Number**  
                                  **21-CV-00721**

**CITY OF JAMESTOWN,  
CITY OF JAMESTOWN CLERK,  
JAMESTOWN POLICE DEPARTMENT,  
JAMESTOWN POLICE CHIEF TIMOTHY JACKSON,  
COUNTY OF CHAUTAUQUA,  
CHAUTAUQUA COUNTY SHERIFF'S OFFICE,  
CHAUTAUQUA COUNTY SHERIFF JAMES B. QUATTRONE,  
CHAUTAUQUA COUNTY UNDERSHERIFF DARRYL W. BRALEY,  
JOHN DOES 1-10, said names being fictitious  
but intended to be any other individual/officers  
involved in the within incident and employees  
of the CITY OF JAMESTOWN and/or JAMESTOWN POLICE  
DEPARTMENT in their individual and official  
capacities,  
and JOHN DOES 1-10, said names being fictitious  
but intended to be any other individual/officers  
involved in the within incident and employees  
of the COUNTY OF CHAUTAUQUA and/or CHAUTAUQUA  
COUNTY SHERIFF'S OFFICE in their individual and  
official capacities,**

Defendants.  
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Examination before trial of **MARK CONKLIN,**  
taken pursuant to Federal Rules, via virtual  
teleconference, on August 16, 2023, commencing at  
3:03 p.m., before PATRICK MCLAUGHLIN, Notary  
Public.

1 APPEARANCES:

**SHAW & SHAW, P.C.**  
**BY BLAKE ZACCAGNINO, ESQ.**  
4819 South Park Avenue  
Hamburg, New York 14075  
Appearing for the Plaintiff.

**CORPORATION COUNSEL**  
**CITY OF JAMESTOWN**  
**BY ELLIOT S. RAIMONDO, ESQ.**  
200 East Third Street  
Jamestown, New York 14701  
Appearing for the City of Jamestown  
and affiliated Defendants.

**HANCOCK ESTABROCK LLP**  
**BY MARY L. D'AGOSTINO, ESQ.**  
100 AXA Tower  
100 Madison Street  
Syracuse, New York 13202  
Appearing for the City of Jamestown  
and affiliated Defendants.

(STIPULATIONS: Waive filing of  
the transcript, waive Oath of the Referee,  
reserve all objections until trial, with  
exception of objections as to form.)

**INDEX**

**EXHIBITS:**

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PLAINTIFF'S      Jamestown Police  
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**EXAMINATIONS:**

**PAGE:**

BY MR. ZACCAGNINO  
BY MS. D'AGOSTINO

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**The following was marked for Identification:**

**PLAINTIFF'S EXH. E                      Jamestown Police**

**Department General Order**

**4.05.01.    One Page.**

**MR. ZACCAGNINO:**    The witness's identity is  
Mark, M-A-R-K, Conklin, C-O-N-K-L-I-N.

**MS. D'AGOSTINO:**    Reserve read and sign.  
Yes, please.

**THE REPORTER:**    Any objection to the remote  
notarization?

**MR. RAIMONDO:**    Not from the city.

**MR. ZACCAGNINO:**    No.

**M A R K   C O N K L I N,** 201 East Second Street  
Jamestown, New York 14701, after being duly called  
and sworn, testified as follows:

**EXAMINATION BY MR. ZACCAGNINO:**

**Q.**    Hi, Officer.    I'm Blake Zaccagnino.    I  
represent Christian Powell.    He was involved in a  
few incidents with the Jamestown police back in  
December of 2020.

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1           The first thing I want to ask you was: Do  
2 you want me to call you officer or is there any way  
3 you prefer I address you?

4           **A.**     No preference. Whatever works easier  
5 for you.

6           **Q.**     Okay. Perfect. The -- just a couple  
7 quick points I wanted to make. I just want to make  
8 sure you understand my questions.

9           If you don't, that's completely fine. I  
10 might be confusing or, you know, talk too fast. So  
11 please let me know, and I could rephrase.

12           And if we could just have one person talking  
13 at a time, because on -- on the Zoom, it's hard  
14 because there's, like, a slight delay, so just to  
15 make sure everything is transcribed. Okay?

16           **A.**     Understood.

17           **Q.**     Okay. Perfect. And I -- I have a  
18 number of questions for you in the beginning, you  
19 know, just about your training and your education  
20 and your background.

21           So you know, I'll kind of direct you to the  
22 time frame on that, but you know, if I ask you  
23 about a policy or procedure or how you would do

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1 things, I'm generally interested in how things were  
2 back around the time of the incident, so December  
3 of 2020, if that's okay.

4 **A.** Okay.

5 **Q.** Okay. Perfect. I was wondering if you  
6 could just briefly -- it doesn't have to be  
7 anything crazy or extensive -- take us through your  
8 education and training you've received maybe from  
9 high school until now.

10 **A.** Okay. I graduated from Jamestown High  
11 School here in Jamestown, New York, class of 2013.

12 Later on, I attended the Jamestown Community  
13 College. I obtained enough credits to enter the  
14 Chautauqua County Sheriff's Academy and, from  
15 there, I went from the Chautauqua County Sheriff's  
16 Academy and graduated in June of 2017.

17 **Q.** And where did you work -- where did you  
18 work after that?

19 **A.** Right after the academy, I was hired  
20 for the Town of Busti, New York Court and then the  
21 City of Jamestown Court. In around September of  
22 2017, I was hired at both places around September  
23 of 2017.

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1           **Q.**     And what did you do at the Town of  
2 Busti, did you say? Like, what was -- what were  
3 your day-to-day duties when you worked for them?

4           **A.**     So it was just a part-time job, a  
5 couple days a week, I would go there for evening  
6 courts, basically get the court documents ready for  
7 the night, put them out for the judge, and then  
8 also provide security to the judge and the court  
9 staff.

10          **Q.**     And then you said after that, you went  
11 to the City of Jamestown Court?

12          **A.**     Yes.

13          **Q.**     And what did you do for them at the  
14 City of Jamestown Court?

15          **A.**     It's similar duties, except it's a  
16 larger jurisdiction. We did front-lobby security  
17 where we scanned people in, made sure there was no  
18 weapons being brought inside the building, provide  
19 protection to the judge and the court staff and  
20 assist with court proceedings and assist that the  
21 court be run smoothly.

22          **Q.**     And then at one point, you were hired  
23 as a -- as a police officer at the City of

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1 Jamestown?

2           **A.**     Yes. Well, first, I was hired for the  
3 Village of Fredonia, New York, Police Department  
4 part time as a police officer in April of 2019.

5           I did that for a few short months, and then  
6 on June 13th of 2019, I officially started as a  
7 police officer with the City of Jamestown.

8           **Q.**     And can you take us through your -- any  
9 sort of training that you got when you first  
10 started with the City of Jamestown as a police  
11 officer in 2019?

12           **A.**     Yes. I was taken through field  
13 training with the Jamestown Police Department. I  
14 believe it's a 12-week, field-training program.

15           **Q.**     What was involved in that?

16           **A.**     Just everything related to the job  
17 pertaining to being a police officer in the City of  
18 Jamestown and the procedures on how things are done  
19 in the City of Jamestown.

20           **Q.**     And then did you mention that -- that  
21 there was some additional training that you got  
22 beyond that?

23           **A.**     With the City of Jamestown?



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1           **Q.**     Yes.

2           **A.**     So that would be the field training.

3           **Q.**     Okay. Okay. And then what was the --  
4 or what was involved in the field training? Like,  
5 were you -- were you partnered up with a more  
6 experienced officer that would then take you  
7 through and then shadow -- you know, who would  
8 pretty much work with you?

9           **A.**     Yes. I was partnered up with a  
10 field-training officer, and there's a whole  
11 continuum on, you know, what needs to be -- what  
12 needs to be learned throughout that field training.

13          **Q.**     And -- and in 2019, when you started on  
14 as a police officer at Jamestown, can you just take  
15 us through what a typical day would look like?

16          **A.**     During field training, I was training  
17 on day shift. So I'd do 7:00 a.m. to 3:00 p.m..

18                 I would come in, and it would just start as  
19 you would shadow your field training officer and  
20 see how he or she does the job. And then it would  
21 progress.

22                 You would be more responsible for actually  
23 handling the calls and procedures that -- as a

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1 police officer.

2 Q. Okay. And were you primarily -- back  
3 in 2020, were you primarily on road patrol or would  
4 you be in the jail?

5 A. In 2020, it's -- so all patrol officers  
6 have a rotation in the city jail. So I was a  
7 patrolman, but I also had my turn in the jail.

8 Q. And what sort of duties or activities  
9 did you have to do when you were on duty at the  
10 jail?

11 A. Book prisoners, fingerprints,  
12 photographs, maintain order in the jail.

13 Q. Can you tell us about any sort of  
14 training that -- training or experience that you've  
15 had in inmate supervision in general?

16 A. Yeah. So when somebody enters the  
17 jail, it usually would be screened, like a suicide  
18 screening.

19 Based on the results of that screen, they  
20 would be either placed on constant watch or put in  
21 the normal cell which would be, you know, just  
22 periodic checks every 30 minutes.

23 So based on one, either the results of

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1 the -- I'm sorry. There's a bit of background  
2 noise.

3 So based on either the results of the  
4 suicide screening or if the officer -- if the  
5 transporting officer advised that the person was  
6 already on constant watch, they would be placed on  
7 constant watch so we could observe them throughout  
8 the night.

9 Q. And what's the reason -- what are the  
10 main reasons why someone would be on constant  
11 watch?

12 A. It could be, basically, aggressive.  
13 They could be suicidal. They could have a past  
14 suicide attempt within the prior one year.

15 They could be under the influence of  
16 alcohol; drugs; you know, emotionally, mentally  
17 unstable. Things like that.

18 Q. And does any -- is there any reason  
19 that comes into play on why someone would be on  
20 constant observation, you know, that involves  
21 their -- either threats of self harm or actual  
22 actions of harming themselves?

23 A. Yes.

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1           **Q.**     Can you tell us about any sort of  
2 experiences that you've had with that, where you've  
3 been working at the jail or on patrol and you're  
4 dealing with an inmate that is either threatening  
5 self harm or actually taking actions to harm  
6 themselves and how you handle that situation?

7           **A.**     Yeah. So if anybody entered the jail  
8 and they were threatening self harm or actually  
9 harming themselves, they would be immediately  
10 placed on constant watch once that information was  
11 gathered.

12           **Q.**     And what sort of precautions are taken  
13 when someone is on constant watch? For example,  
14 you know, someone -- some of the other officers  
15 talked about, like, a restraint chair.

16                   What sort of precautions are taken when  
17 someone's on constant watch to prevent self harm?

18           **A.**     So there are a couple locations that  
19 you can put somebody on constant watch. All the  
20 locations would be easily visible to the jail  
21 officer at all times from the booking room.

22                   You can put the -- the arrestee on the  
23 booking bench, which is directly in front of the --

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1 the jail desk. Directly behind the booking bench,  
2 there's a window which goes into a single-cell  
3 tank.

4 To the right of the booking desk, there is a  
5 hallway bench, which you can easily see prisoners.  
6 And then right by the hallway bench, there is a  
7 restraint chair.

8 Q. And is there -- is there anything like  
9 padded cells or, you know, protective helmets that  
10 you -- you put on inmates that might be, you know,  
11 thrashing or banging their head off walls or  
12 objects?

13 A. No.

14 Q. Have you experienced that either when  
15 on patrol or at the jail, inmates trying to hit  
16 their heads off the walls and off objects and  
17 things like that?

18 A. I can't really recall that.

19 Q. Okay. And what sort of signs and  
20 symptoms do you -- I don't know if that's a good  
21 term, but what sort of signs and symptoms do you  
22 look out for in an inmate who -- that might be  
23 under -- or that might qualify to be under constant

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1 watch?

2 Is it threatening self harm or, you know,  
3 what sorts of things do you look out for?

4 **A.** That could be threats of self harm. It  
5 could be actively self harming themselves. It  
6 could be mentally, emotionally disturbed, under the  
7 influence of alcohol or drugs, aggressive. Things  
8 like that.

9 **Q.** And can you tell us what a 9.41 is?

10 **A.** Yeah. So a mental health law 9.41  
11 is -- it's an order that the person be seen by a  
12 health professional.

13 And there's two types of -- so 9.41 is for  
14 somebody that is suicidal or, you know, whether  
15 that be actively trying to, you know, commit  
16 suicide or speaking of thoughts of suicide or it  
17 could be self harm in any way.

18 **Q.** And then -- and now, from my  
19 understanding, there's a difference between someone  
20 that -- someone that can be classified as a 9.41  
21 that is not being charged with anything versus  
22 someone that's being charged with a crime and then  
23 is determined as a 9.41; is that true?

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1           **A.**     Yes. It just means that they have to  
2 see a mental health professional, you know -- maybe  
3 not immediately, but in a timely manner.

4           **Q.**     And like, would that be for the -- the  
5 inmate who -- or I'm sorry -- the person who is --  
6 who is charged with something?

7           **A.**     So if somebody wasn't in the custody of  
8 us, they would be immediately brought to the --  
9 whatever local facility, which is UPMC Chautauqua.  
10           If they were incarcerated in our jail, they  
11 would either be -- they would be placed on constant  
12 watch if there was a 9.41 order until either their  
13 released or transferred to a county jail.

14           **Q.**     And so generally, would that be -- if  
15 it's an inmate that's -- I'm sorry -- if it's  
16 someone that's arrested and is in Jamestown  
17 custody, they would be sent -- if they're 9.41,  
18 generally, the policy is they're sent after  
19 arraignment?

20           **A.**     Yeah. Depending on if they're  
21 released. If they were released, they would be  
22 brought directly to the UPMC Chautauqua. If  
23 they're committed to the county jail, then the

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1 county would actually provide a mental health  
2 service within their jail.

3 Q. And is -- are there any -- is there any  
4 medical staff at Jamestown booking?

5 A. Not in the booking, no.

6 Q. Did you receive any training in the  
7 process of becoming a police officer in mental  
8 health diagnoses and, you know, how to respond to  
9 people that might have mental health troubles?

10 A. Yes. So the procedures would be --  
11 would have been discussed through field training  
12 and whatnot.

13 Q. And just what we talked about earlier  
14 about the screening and then what type of  
15 supervision that you would -- that you would  
16 provide them?

17 A. Yes.

18 Q. Okay. And can you tell us, under -- in  
19 what circumstances would medical or EMS be called  
20 to address an inmate's need either during an arrest  
21 or at the jail?

22 A. There can be an apparent physical  
23 injury. There can be complaint of a chest pain,



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1 complaint of almost anything that would need to be  
2 looked at as far as, like, a physical injury by a  
3 medical health professional.

4           **Q.** And so generally, if -- and this could  
5 sound funny, but generally if medical is called or  
6 EMS is called to come look at either someone's  
7 that's at the jail that was injured at the jail or  
8 during the course of an arrest, generally it would  
9 be someone who the officer or -- someone at  
10 Jamestown would determine that they needed care,  
11 that they needed to be seen for treatment?

12           **A.** It could be the Jamestown Fire  
13 Department who responds. It could also be ALSTAR  
14 EMS. We don't really know who's going to come when  
15 we call.

16           **Q.** Okay. And are there situations -- or  
17 I'm sorry.

18           Is it the policy of Jamestown to, if an  
19 inmate sustains any injury -- for example, let's  
20 say an inmate stubs their toe or something, you  
21 know, is it a -- is it the policy that, whenever an  
22 inmate is injured in any fashion, that they -- that  
23 either EMS or medical professionals are called to

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1 take a look at it since there's no medical staff at  
2 the facility or is there a certain level of injury  
3 that, you know, is -- would fit into that category?

4 **A.** I think it would be determined by the  
5 shift commander and the jail officer whether it  
6 warrants any medical attention.

7 **Q.** Okay. So I know that we've talked  
8 about constant observation while at the Jamestown  
9 jail. What other levels of observation are there?  
10 Is there, like, every hour -- is it, like, hourly  
11 or --

12 **A.** So we have an M block, which would just  
13 be, like, a cell with a bathroom, a sink and  
14 whatnot that we -- we do have cameras for. The  
15 physical checks are every 30 minutes for those.

16 **Q.** And what's the -- the purpose -- what's  
17 the purpose of the checks, just to identify --

18 **A.** To make sure, like, you know, a person  
19 didn't have a -- like, an unknown medical emergency  
20 or -- you just never know. Sometimes people are  
21 unpredictable and you screen them and they're fine,  
22 but later on, maybe they're not doing as good.

23 **Q.** And have you -- have you experienced

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1 that, where an inmate at one point -- or an inmate  
2 or suspect at one point is -- you know, they come  
3 in and, you know, like you said, they're doing okay  
4 and then, over the course of the night, they get  
5 worse and worse?

6           **A.** I can't say that I've taken somebody,  
7 like, out of the normal block and placed them on  
8 constant watch later, but yeah, I have seen, like,  
9 situations change in people that were already being  
10 watched.

11           **Q.** And what is -- is there a certain  
12 policy -- or policy and procedure that you follow  
13 to make adjustments to how you're supervising an  
14 inmate depending on their condition as it  
15 progresses throughout the time that hair there?

16           **A.** So like, if they're -- you mean, like,  
17 if they're, like, in the regular cells and you,  
18 like, see something changing?

19           **Q.** Yeah.

20           **A.** I mean, depending on what the situation  
21 was, you may want to place them on constant watch.  
22 If there's, like, a medical emergency, obviously,  
23 you'd call for help, things like that.

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1           **Q.**     How is it determined if it -- if  
2 someone is on constant watch? I know that you  
3 mentioned the different areas of the jail where  
4 someone in that category could be placed. How is  
5 it decided where they're placed?

6           **A.**     Sometimes it's just the availability  
7 of, you know, what's not taken already. And  
8 sometimes, it's just your judgment.

9           **Q.**     Is there -- is there any area where it  
10 would be for the -- is there any area within the --  
11 the jail that you described that allows for the  
12 highest level of supervision that you would put  
13 someone that is, like, really needs -- really  
14 requires -- yeah. You can --

15          **A.**     Yeah. Like I said, you can see -- you  
16 can see everyone kind of the same when they're in  
17 any portion of the constant watch. But I would say  
18 in the actual background room because it's in the  
19 same physical room would be, possibly, the best  
20 location to observe somebody, at least.

21          **Q.**     And if someone is -- is in that area in  
22 the booking room, how are they generally restrained  
23 if --

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1           **A.**     I believe it would be the leg shackle.  
2     Sometimes, people use a handcuff. It's just based  
3     on the jailer's preference.

4           **Q.**     Which -- which method of restraint,  
5     from your experiences, is best for someone that is  
6     on constant observation that is -- has, you know,  
7     harmed -- has harmed themselves, for example, by  
8     hitting their head off the wall or punching a wall  
9     or -- is it the ankle restraint or is it handcuffs  
10    or is there any sort of restraint that allows for  
11    the best supervision?

12          **A.**     I would say either restraints aren't  
13    going to change the outcome of somebody that's  
14    doing any of that. That's mainly a comfort thing  
15    for me, putting the leg shackle on versus the  
16    handcuff.

17          **Q.**     Okay. Okay. Are -- are -- are there  
18    capabilities at the Jamestown booking to provide  
19    any suspects or inmates with medications or no?

20          **A.**     No. Not in the jail.

21          **Q.**     Okay.

22          **A.**     I mean, we do have, like, a medical kit  
23    with, like, bandages and things like that, but we

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1 don't ever administer medicine unless the person  
2 actually came in with their own medicine and we --  
3 we do a thing with med verification.

4 We'd call the pharmacy, and we do a med  
5 verification to verify that that's actually their  
6 medicine. So in that case, we would give them the  
7 medicine, but it's not like we're providing it.

8 Q. Okay. I want to shift gears, and I  
9 want to talk about any training or -- any training  
10 or experiences that you received regarding use of  
11 force.

12 A. Okay.

13 Q. What sort of training or experiences  
14 have you had with that?

15 A. So just like the continuum. When I was  
16 in the Chautauqua County Sheriff's Academy and the  
17 levels of force that would be based on the given  
18 situation.

19 Q. Oh. Jeez.

20 MR. ZACCAGNINO: I'm sorry. The court's  
21 calling me, is there any way I can take a minute?

22 THE WITNESS: Sure. That's fine.

23 MR. ZACCAGNINO: Sorry about that.

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1           **THE WITNESS:**   It's okay.

2

3           (Whereupon, a recess was then taken.)

4

5           **BY MR. ZACCAGNINO:**

6           **Q.**     Okay.  Officer, I know that -- I think  
7     where we left off is I was asking you about any  
8     training or experiences that you received in the  
9     use of force.

10          **A.**     It would have been reviewed during the  
11     Chautauqua Sheriff's Academy and then my  
12     training -- additional training with the Jamestown  
13     Police Department.

14          **Q.**     Okay.  And can you tell us generally  
15     what the -- what the use of force -- Use of Force  
16     Continuum is?

17          **A.**     Yeah.  So it would go all the way from  
18     officer presence, and then it would build up from  
19     there all the way up to deadly force.

20          **Q.**     And can you describe the different  
21     levels of resistance and then what sort of force  
22     can be used in response to each level?

23          **A.**     Yeah.  So there's, like, passive

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1 resistance. There is -- there's, like, fighting.

2           There is -- there is, like, somebody using,  
3 like, weapons against you. You know, you can  
4 always use one step above for the Use of Force  
5 Continuum.

6           **Q.** And do you have any -- can you talk to  
7 us about any sort of training or experiences you've  
8 had in dealing with an inmate that is -- or I'm  
9 sorry -- a suspect that is either threatening self  
10 harm or acting out and harming themselves during  
11 the course of an arrest and how that relates to the  
12 use of force or what sort of force that you can use  
13 in that situation?

14           **A.** I guess it would depend on the  
15 situation. It would depend on how the person is  
16 resisting, if they pose a threat to the officer or  
17 just themselves. We would always try to use the  
18 lowest level of force to take that subject into  
19 custody and, you know, not cause injury.

20           **Q.** And if you have a suspect that is, for  
21 example, banging -- banging their head off the  
22 ground during the course of an address -- or during  
23 the course of an arrest, what sort of policies or



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1 procedures do you go through in that situation to,  
2 you know, prevent them from continuing to do it and  
3 hurt themselves?

4           **A.**     We do our best to restrain them and do  
5 our best to prevent them from hitting their head.

6           **Q.**     And how do you do that? Is it -- do  
7 you put your hand on -- you know, kind of press  
8 their head down on --

9           **A.**     You kind of put their head, like,  
10 against the ground, so it's not really moving.  
11 You're not really putting a lot of force, but just  
12 enough so they couldn't hurt themselves further.

13           **Q.**     And is there any sort of policy and  
14 procedure that you're aware of that applies to the  
15 situation where, during the course of an arrest, a  
16 suspect is self harming or threatening self harm  
17 and they're being transported to booking or to some  
18 other -- you know, some other area, whether it be  
19 the hospital or court or some other location that  
20 applies to make sure -- make sure they don't  
21 continue to hurt themselves during transport?

22           **A.**     During the actual transport, the best  
23 we can do is restrain them with our wrist

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1 restraints and then possibly use a seat belt to  
2 restrain them, but that's possibly the most  
3 difficult part, you know, to actually stop them  
4 from actively hurting themselves is during the  
5 transport.

6 Q. And what does that involve, the  
7 handcuffing? Like, would it be -- I'm sorry.

8 The seat belt. Would the seat belt lock in  
9 place and just prevent the inmate from thrashing  
10 around or --

11 A. No. It still wouldn't prevent because  
12 it's not, like, a head restraint. So I mean, it  
13 would just, maybe, limit their movement slightly,  
14 but probably not enough to do much.

15 Q. Are there -- are there any -- any other  
16 options available for that situation other than,  
17 you know, wrist restraints and then possible seat  
18 belt? You know, is there any -- are there any  
19 other precautions that are taken for that  
20 situation?

21 A. Not that I've ran into.

22 Q. Okay. Have you ever experienced a  
23 situation where, during transport, a suspect is

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1   harming themselves and then you pull over and  
2   reposition them in the back of the vehicle or do  
3   anything similar to prevent self harm or --

4           **A.**    I don't think there's ever been a time  
5   where I've actually had to stop a vehicle, but I  
6   mean, I've had people, like, hit their head in the  
7   back of a car during a transport, yes.

8           **Q.**    Is that in -- if -- if it was  
9   determined that, you know, if you felt that you  
10   needed to stop and readjust an inmate to prevent  
11   from self harm, is that an option?

12          **A.**    You could, but I -- I guess it would  
13   all depend on, like, what -- what are you going to  
14   be able to change if you get out of the car and  
15   what are you going to be able to do to prevent  
16   that.

17          **Q.**    Okay. So on December 10th of 2020, you  
18   were working for the City of Jamestown police,  
19   right?

20          **A.**    Yes.

21          **Q.**    Were you working on that night -- or on  
22   that day, December 10, 2020?

23          **A.**    Yes.

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1           **Q.**     What shift did you work on?

2           **A.**     Night shift, 11:00 p.m. to 7:00 a.m..

3           **Q.**     And who -- what officers were working  
4 with you on the night shift?

5           **A.**     To my recollection, it would be myself,  
6 Officer Wise, Officer Obergfell, Officer Johanson.  
7 Then -- then Officer Schimek, now Sergeant Schimek,  
8 and then Lieutenant Ward.

9           **Q.**     And what was -- what was your -- what  
10 was your assignment that day? Were you on road  
11 patrol or were you at the jail?

12          **A.**     City jail.

13          **Q.**     Okay. I just want to go through some  
14 policies quickly with you. And the main question I  
15 have for them is if you recognize it and if -- and  
16 if, to your knowledge, the policy was in effect on  
17 the day of the incident.

18                 And then I'll go through the incident  
19 itself. Okay?

20          **A.**     Okay.

21          **Q.**     Okay. Okay. So I'm showing you -- I  
22 have it marked as Plaintiff's Exhibit A. It's  
23 policy number 1.11.01; subject, use of force.

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1           Could you -- so the two questions I have was  
2 if you've seen this before and if it was the -- if  
3 this policy was in effect on the day of the  
4 incident or on December 10 of 2020.

5           **A.**     At some point during my training, I'm  
6 sure I have reviewed that. I couldn't tell you if  
7 that was the same policy that was in effect on that  
8 date, but I would -- I would assume it would be.

9           **Q.**     Okay. Yeah. And at the bottom, the  
10 bottom-left corner, which is on page 3 of this  
11 exhibit, it has the -- the different revised dates.

12           So I don't know if that helps, too, but --

13           **A.**     Okay.

14           **Q.**     Okay. What about number -- or  
15 Plaintiff's B. This is policy number 2.02.12. And  
16 it says, psychiatric evaluation and transports.  
17 Have you seen this before and was this -- was this  
18 policy in effect on December 10 of 2020?

19           **A.**     Yeah. At some point during my  
20 training, I would have reviewed this, and it  
21 appears to be a policy that was in effect.

22           **Q.**     And then I have Plaintiff's C, which is  
23 policy number 4.02.05. And then it says, prisoner

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1 custody transport and treatment. Have you seen  
2 this before and was this policy in effect on  
3 December 10 of 2020?

4 **A.** At some point in my training, I'm sure  
5 I've reviewed this and it appears to be what was in  
6 effect.

7 **Q.** And I have Plaintiff's Exhibit D, I  
8 believe. And this is -- this is policy number  
9 4.05.01, suicide prevention program development.  
10 Have you seen this policy and was it in effect on  
11 December 10 of 2020?

12 **A.** Yes. During the course of my training,  
13 I've reviewed this, and it appears to be the one  
14 that was effective.

15 **Q.** Okay. And then I'm looking at policy  
16 number 4.05.08. And it's suicide prevention  
17 program referrals of prisoners for mental health  
18 and medical health service. Have you seen this  
19 before and was it in effect December 10, 2020?

20 **A.** Yes. It would have been reviewed  
21 during my field training and, at some point, I  
22 looked at it. And it would have been -- appears to  
23 be effective during that time.

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1           **Q.**     Okay.   So I wanted to ask you, just  
2 generally, what your interactions were with  
3 Christian on December 10 of 2020 from start to  
4 finish.

5           And then I can kind of jump in and ask you  
6 some questions about it and kind of break it down  
7 if we need to.

8           So I was wondering if you could just tell us  
9 about your interactions with him on December 10th  
10 of 2020.

11          **A.**     Yeah.   So I believe it was around 3:28.  
12 He came into the Jamestown city jail.   He was  
13 verbally combative.   I guess one of the officers on  
14 scene had requested EMS evaluate him for something  
15 that happened on scene.

16          And a couple minutes later, I believe it was  
17 ALSTAR arrived into the jail.   They attempted to  
18 evaluate Christian, and he refused any -- you know,  
19 he didn't -- he wouldn't cooperate, and he was just  
20 verbally combative the whole time.

21          **Q.**     And so what -- what other observation  
22 did you have of him that night?

23          **A.**     I mean, I was with him the entire night

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1 from the time where he arrived in the jail until  
2 the time he -- until the time I ended my shift.

3 So he was placed right in front of me on the  
4 booking bench just because 9.41 had been completed  
5 by an officer on scene and he had to be on constant  
6 watch. So he was with me for the entire --

7 Q. And can you describe his -- his  
8 behavior over the course of the night?

9 A. It would change. There would be times  
10 where he was called and there would be times where  
11 he was upset, I would say.

12 Q. Did he make any -- any threats of self  
13 harm or say that he wanted to die or give any other  
14 suicidal ideation over the time period when you  
15 were supervising him?

16 A. I can't recall. But as I said, he was  
17 already on the 9.41 order, so he was already, you  
18 know, at the highest level of constant watch that  
19 we could place him.

20 Q. And were you aware or is it your  
21 understanding that -- well, I'm sorry.

22 I should ask you this: Is it your -- was it  
23 your understanding on that night that, at the



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1 scene, Christian was banging his head off the  
2 ground? Did you know that when you were  
3 supervising him?

4           **A.** I can't recall whether I knew that or  
5 not. I did, you know, see that he had some -- a  
6 little scrape on the side of his head, and that's  
7 all I could remember. I don't really recall  
8 whether, you know, how that actually occurred.

9           **Q.** And then what about on -- in transport  
10 from 111 Barrett, which, from my understanding, is  
11 where he was arrested to -- until the time he was  
12 brought into booking?

13           Is it your understanding that he -- that,  
14 during transport, he was bashing his head off the  
15 inside of the -- of the patrol car?

16           **A.** It's my understanding now. I cannot  
17 say whether or not I knew that when he came in, but  
18 that is my understanding now.

19           **Q.** And then was it your understanding  
20 that, when he was taken from the patrol car and  
21 brought inside, so from the time he was taken out  
22 of the car and then actually brought into booking,  
23 that he was hitting his head on the -- the -- I

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1 think it was the trunk of the patrol car?

2           **A.**     Yeah. I do remember that.

3           **Q.**     And is that something that you knew  
4 about from the -- from the time you first got there  
5 until the end of your shift at 7:00 a.m.?

6           **A.**     Yes. I did know.

7           **Q.**     And then can you tell us about any time  
8 throughout the night where he harmed himself,  
9 whether it be, you know, punching -- you know,  
10 punching the bench or banging his head off the wall  
11 or, you know, anything similar to that?

12           **A.**     I'm aware of an incident at -- around  
13 6 -- 6:20, I believe, where he hit his head off the  
14 wall, yes.

15           **Q.**     And then what happened -- what happened  
16 in response to that, him hitting his head off the  
17 wall?

18           **A.**     Once he hit his head off the wall, he  
19 fell off of the booking bench and then kind of  
20 started grunting. And I called for EMS almost  
21 right away.

22           **Q.**     Can you tell us about how he was  
23 restrained from the time, I guess, when you first

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1 started observing him until -- until the end of  
2 your shift?

3           **A.**     The first restraint that he was given  
4 by me was the leg shackle, and that was the only  
5 restraint that I'm aware of that was utilized on  
6 him.

7           **Q.**     Did he end up kicking off the ankle  
8 restraint at some point or breaking it?

9           **A.**     I vaguely remember that.

10          **Q.**     And was there -- was there anything  
11 done in response to that as far as, you know,  
12 providing -- you know, taking additional  
13 precautions to, you know, react to his behavior or  
14 was he just -- he just remained on constant  
15 observation?

16          **A.**     I think it was just kind of like an  
17 impulsive thing on his behalf, so he just allowed  
18 me to put the leg shackle right back on. And my --  
19 from what I remember, it wasn't broken, and that  
20 was just that.

21          **Q.**     And do you -- did he, at any point  
22 throughout the night at booking, talk about himself  
23 having PTSD?

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1           **A.**     Yes.

2           **Q.**     And what was he saying about it? Did  
3 he just say he was -- he was having an episode or  
4 what was he -- what was he saying?

5           **A.**     I recall he said that he hasn't slept  
6 in days and he was just basically upset over his  
7 lost relationship and his kids, as well.

8           **Q.**     And was there anything done in response  
9 to that other than what we've already talked about  
10 as far as additional precautions taken or did he  
11 just remain as -- as he was?

12          **A.**     Yeah. He was still at the highest  
13 level of constant watch, and he remained.

14          **Q.**     And I think you said, over the course  
15 of the night, you do not recall whether or not he,  
16 Christian, said he wanted to kill himself or not?  
17 You just know he was on constant observation?

18          **A.**     I know he said a lot of things, but I  
19 can't recall exact phrases that he used.

20          **Q.**     Okay. And who was mainly assigned to  
21 supervise him while he was in booking from the time  
22 he got in there until the time of the arraignment?  
23 Was it yourself or was there other people within

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1 the facility as well?

2           **A.**     So for -- when he came in, which was  
3 around 3:30 to -- I was relieved, I believe, around  
4 6:50 a.m.. My shift technically ends at seven, but  
5 we're usually relieved a little earlier.

6           So the arraignment doesn't happen until  
7 around nine 9:30 in the morning. So he would have  
8 been observed by somebody between 6:50 and whenever  
9 his arraignment occurred.

10           **Q.**     And over the course of the night when  
11 you were supervising him, did he make any requests  
12 to go to the hospital or get a mental health  
13 evaluation that you remember?

14           **A.**     I remember that he had complained about  
15 his face and his hands, but that was, like,  
16 immediately after EMS had just left and he just  
17 refused services.

18           **Q.**     And did you -- did you observe him on  
19 that -- at any point throughout the night smashing  
20 his hands down on the bench?

21           **A.**     I can't recall whether he smashed his  
22 hands off the bench or not. It wouldn't be out of  
23 the realm of possibility, but it wouldn't be

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1 something that I could say for sure he did.

2 Q. Did you observe him at any point  
3 punch -- punch walls over the course of the night?

4 A. Not specifically that I can recall.

5 Q. Was there any point in the night when  
6 he -- that you observed him yank the phone off the  
7 wall?

8 A. Again, I can't really say whether he  
9 did that or not.

10 Q. And I mean, how did he seem like his --  
11 his -- and I know that you're not, you know, a  
12 mental health expert, but just based on your  
13 observations of him, over the course of the night  
14 when you were observing him, how did his condition  
15 seem like it was getting?

16 Did it seem like it was getting worse or did  
17 it seem like it was getting better? Was it going  
18 up and down? Can you just describe that?

19 A. There would be times when he seemed  
20 fine and, you know, conversing with me about -- you  
21 know, just normally. And then there would be times  
22 where he was just clearly upset.

23 Q. Was that concerning at all to you, that

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1 he was up and down?

2           **A.** I mean, it's something that we deal  
3 with quite often with people and them being  
4 unpredictable, but I mean, I was doing my best to  
5 just, you know, keep him from being -- you know,  
6 try making him calm is what I was trying to do.

7           **Q.** Yeah. Did he, at any point throughout  
8 the night, tell you that he was -- or that he  
9 wanted to jump head first off the bench? Do you  
10 remember that?

11           **A.** I don't remember those -- that exact  
12 phrase being used. Like I said, he was already on  
13 constant watch, and he was already at the highest  
14 level of supervision that I could provide to him.

15           And whether he made that statement or not,  
16 it wouldn't have changed his, you know, level of  
17 supervision just by saying that.

18           **Q.** Okay. And I mean, it seemed like at  
19 times from looking at the video that it seemed like  
20 he was ranting -- that he was, like, ranting and  
21 raving about his situation. Is that something that  
22 you observed?

23           **A.** Yeah. I just remember him speaking of

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1 being, like, you know, his ex and upset about his  
2 ex and his kids and, you know, that he hadn't slept  
3 and whatnot. Those are basically the only things I  
4 can recall.

5 Q. Was he -- over the course of time when  
6 you were observing him at booking, did you -- or  
7 was he ever put in a restraint chair?

8 A. No.

9 Q. What was the reasoning for not putting  
10 him in the restraint chair?

11 A. I mean, usually, you put somebody in  
12 the restraint chair when they're continually, you  
13 know, harming themselves.

14 But the way he was is he would, you know,  
15 maybe be upset for a moment and then he would,  
16 like, calm right back down.

17 So like, the reasoning would -- you know,  
18 would be kind of over by the time, you know, you  
19 put him in there. And he was already calm by the  
20 time you were ready to do that, so --

21 Q. Do you -- did he, at any point, mention  
22 to you that -- that, basically, that he wanted  
23 officers to choke him or tase him or anything?



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1 Is that something you remember him saying to you?

2 **A.** No. I don't remember him saying that.

3 **Q.** Did he, at any point, let you know that  
4 he -- and I don't know if he actually did or  
5 didn't, but that he had an appointment to see a  
6 psychiatrist that was coming up or it might have  
7 been the following day or anything?

8 Did he mention that to you?

9 **A.** I can't -- I can't specifically  
10 remember him mentioning an appointment.

11 **Q.** Was he, at points in the night, you  
12 know, crying? You know, was he -- yeah. Like, was  
13 he crying throughout the night?

14 **A.** I do remember, at least at one point,  
15 he was crying, yes.

16 **Q.** Do you -- do you -- or I'm sorry. Was  
17 there any point in the night when he was --  
18 Christian was, like, almost hanging -- hanging off  
19 the bench and moaning and just kind of acting  
20 incoherent that you can recall?

21 **A.** Yes. When he hit his head off the  
22 wall, he kind of fell off of the bench, and that's  
23 when EMS was called for the second time.

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1           **Q.**     And it seemed like -- you know, I know  
2     that you -- that you talked about how maybe --  
3     maybe you weren't aware of every -- every time  
4     prior to him coming into booking that he hit his  
5     head off the ground or hit his head on the patrol  
6     car or hit had off the divider in the car, but when  
7     you were supervising him, did you have an  
8     understanding that he -- he had a tendency to do  
9     things like that, you know, like self-harming  
10    activities and hitting his head off walls and  
11    things like that?

12           **A.**     I know he was kind of unpredictable.

13           **Q.**     And you know, from what it sounds like,  
14    you at least had knowledge of a few different  
15    occasions of where -- prior to him coming to  
16    booking, where he -- where he was banging his head  
17    off things; is that fair?

18           **A.**     Like I said, I couldn't really recall  
19    whether or not he was -- I mean, I do remember  
20    something about him hitting his head off the patrol  
21    car, but I really don't know -- I didn't know at  
22    the time all the details on scene, no.

23           **Q.**     Okay. Okay. And was there -- was

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1 there any sort of process where, when Christian  
2 first got to booking, where you were kind of  
3 brought up to speed of everything that happened  
4 from the time that he was arrested until he was  
5 first under your supervision?

6 **A.** At some point, I would have been  
7 notified by one of the transporting officers that  
8 he was on constant watch or to be on constant watch  
9 due to his 9.41 status. That's all I would know.

10 **Q.** Okay. So you wouldn't really get a  
11 background of why he's on constant watch? You  
12 would just know he was on constant watch?

13 **A.** I'm sure that information could have  
14 been available to me, but I just couldn't tell you  
15 whether or not I knew all the details at the time.

16 **Q.** Okay. Did it cross your mind at all  
17 throughout the night that, you know, Christian's on  
18 constant observation, but his behavior is just --  
19 oh. Can you hear me?

20 **A.** Yes.

21 **Q.** Okay. Did it cross your mind at all  
22 that Christian's behavior was just escalating and  
23 that he needed more than just constant observation,

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1 he needed -- you know, he needed help outside of  
2 booking? Did that ever cross your mind throughout  
3 the night?

4 **A.** I wouldn't say his condition really  
5 escalated. It was kind of, you know, up and down  
6 throughout the night.

7 And again, he was already given the highest  
8 level of watch that I could provide him in the  
9 jail. And he was already given a 9.41 referral for  
10 when he was leaving the jail to be evaluated for  
11 that.

12 **Q.** And that -- and that would have been  
13 after -- after his arraignment, whenever that was?

14 **A.** Yes.

15 **Q.** Okay. And did you have any involvement  
16 in the incident that took place after his  
17 arraignment when he was put in the restraint chair  
18 or is that -- you were off by that point?

19 **A.** No. That would have been another  
20 shift.

21 **Q.** Okay. Okay. And is it fair to say  
22 that Christian was on constant watch at -- at  
23 booking and, other than constantly observing him

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1 and restraining him to the bench, there really  
2 wasn't anything further done as far as giving him a  
3 helmet or, you know, putting him in a restraint  
4 chair or trying to hold his head to make sure he  
5 wouldn't bash his head on the wall from the time  
6 that you -- that you first started supervising him  
7 at booking until the end of your shift?

8 **MS. D'AGOSTINO:** Objection. You can answer  
9 if you understand the question.

10 **THE WITNESS:** Well, we don't have helmets  
11 available in the Jamestown city jail. Holding  
12 someone's head for the entirety of a shift would  
13 not be anything that we would ever partake in.

14 And as far as the restraint chair, he  
15 didn't -- he hadn't bashed his head on the wall  
16 prior to the incident that was at 6:20, I believe.

17 So I believe that was the first time that he  
18 did anything that was actually physically harming  
19 himself.

20

21 **BY MR. ZACCAGNINO:**

22 **Q.** And is it -- is it -- you know, it's  
23 all in the videos. I'm sure we could refer back to

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1 it, but -- but that may have been within the time  
2 frame when you first started observing him at  
3 booking until the end of your shift so that you  
4 said he -- from your memory, he hit his head off  
5 the wall at 6:25?

6 **A.** 6:20, I believe. Yeah.

7 **Q.** And is it possible, just based on your  
8 understanding that he was -- from the time he first  
9 got to booking until the 6:25, that he was  
10 threatening self harm?

11 **A.** He very well may have been.

12 **Q.** When you observed him at booking, what  
13 sort of medical care did he get? So I know that  
14 you mentioned, when he first got there, EMS was  
15 called. But what other care did he get over that  
16 time frame when you were observing him at booking?

17 **A.** EMS was called. And like I said, that  
18 was when he -- almost when he first entered the  
19 city jail. And the purpose of that was for him to  
20 be evaluated to see whether or not he needed any  
21 care, and he was highly uncooperative with EMS.

22 **Q.** And then the second time was when he  
23 hit his head off the wall?

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1           **A.**     Yes.    At 6:20.

2           **Q.**     Okay.   Does -- does UPMC have more  
3 capabilities regarding dealing -- treating mental  
4 health conditions than Jamestown booking?

5           **MS. D'AGOSTINO:**   Objection.   You can answer  
6 if you know?

7           **THE WITNESS:**   I would say yes.   UPMC would  
8 definitely have more of a capability to -- we don't  
9 have any mental health services in the jail.   We do  
10 suicide screenings.

11

12           **BY MR. ZACCAGNINO:**

13           **Q.**     And does UPMC have better capabilities  
14 regarding restraining someone that might harm  
15 themselves as far as, you know, maybe giving them a  
16 medication that might sedate them or restrain them  
17 to a hospital bed or -- you know, did they have  
18 more capabilities than at Jamestown booking?

19           **A.**     Well, we can't medicate someone in the  
20 jail, so I would assume the hospital would have  
21 more capabilities as far as medication.

22           **Q.**     I just want to quickly go through some  
23 exhibits, and I could really short circuit it and

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1 just ask you whether or not -- or I'm sorry -- ask  
2 you about the exhibits that you -- that you  
3 prepared.

4 And I just want to know if it's an accurate  
5 copy of it, of -- you know, whatever the document  
6 is. So just give me one minute.

7 Okay. So -- okay. So I'm showing you --  
8 this is -- I believe we have it marked as  
9 plaintiff's F, but just for the record, it's --  
10 there's an E on the top of it, and it's got  
11 Jamestown Police Department. And it has the case  
12 number on the top of it.

13 Do you recognize this document here?

14 **A.** I recognize it as a report that was  
15 completed by another officer that --

16 **Q.** Okay. Okay. And you didn't prepare  
17 it, right? This was prepared by a different  
18 officer?

19 **A.** Yes.

20 **Q.** Does it appear to be a fair and  
21 accurate copy of this report or do you not know it  
22 well enough to say one way or the other?

23 **A.** I'm not familiar enough with the



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1 report.

2 Q. Okay. I want to show you -- I'm -- I  
3 think this was marked as plaintiff's -- there's --  
4 it looks like there's a G at the top, and it's got  
5 document 14-5. Do you recognize this document  
6 here?

7 A. Yes.

8 Q. Did you prepare this?

9 A. Yes.

10 Q. Oh. Okay. And -- and does it appear  
11 to be a fair and accurate copy?

12 A. Yes.

13 Q. Okay. I want to show you what's --  
14 there's -- there's an H on the top, and it has  
15 document 14-5 again. And it's got case file number  
16 1044 on the top-left corner.

17 Do you recognize this document? Is this the  
18 same one we just looked at or no? I think this  
19 might be different.

20 A. That's the second incident.

21 Q. Oh. Okay. Did you prepare this?

22 A. Yes.

23 Q. Okay. And is it -- does it appear to

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1 be a fair and complete copy?

2 **A.** Yes.

3 **Q.** Okay. And I'm showing you -- I'm not  
4 sure what exhibit it was, but there's an I at the  
5 top, and it's got case file number 1018, document  
6 number 16-1 at the top. And it's got 9.41 UOF  
7 under incident type.

8 Do you recognize this document here?

9 **A.** I see that it's a report that was  
10 completed by another officer with no -- I don't  
11 have any direct involvement in.

12 **Q.** Okay. Okay. Okay. I'm almost done.  
13 Let me see. Okay. We already went over that.

14 Okay. Do you -- can you tell us if you  
15 agree or disagree that if -- that, if Christian was  
16 in the restraint chair, it would have prevented him  
17 from banging his head off the wall that night?

18 **A.** I could say we do a restraint chair for  
19 two-hour blocks. So it may have prevented him  
20 hitting his head for a short period of time, but  
21 not for the entirety of his confinement, no.

22 **Q.** Okay. Did you review anything to  
23 prepare for today, any documents or anything?

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1           **A.**     Yes. I reviewed my reports, and then I  
2 also reviewed some of the jail footage.

3           **Q.**     Okay. Is there -- is there a  
4 discipline file that is kept for each officer at  
5 Jamestown -- for Jamestown police?

6           **A.**     Yes.

7           **Q.**     Have you ever had any discipline filed  
8 against you or any complaints filed against you?

9           **A.**     Never. Nothing.

10          **Q.**     Okay. Okay. You know, I know it's  
11 been three years since -- almost three years since  
12 this -- yeah. Almost three years.

13                 In your review of the footage and, you know,  
14 looking back on it, would you have handled it any  
15 differently in -- you know, looking back at it now?

16           **MS. D'AGOSTINO:** Objection. Improper  
17 hypothetical. You can answer if you understand the  
18 question.

19           **MR. RAIMONDO:** You can answer if you  
20 understand it.

21           **THE WITNESS:** Like I said, I mean, I think I  
22 did everything the same as I would do it now. It's  
23 just he was unpredictable.

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1 And he didn't -- he didn't continue to do  
2 something that was self injurious for an extended  
3 period of time that would warrant me putting him in  
4 the restraint chair.

5 And even if we did utilize the restraint  
6 chair, that would be for a two-hour block, and  
7 that's not going to prevent him from hitting his  
8 head. I mean, if he really wanted to.

9 **MR. ZACCAGNINO:** Okay. I appreciate your  
10 time. That's all I have for you. Mary and Elliott  
11 might have some follow-ups, but I'm thankful for  
12 your time and patience. Thank you.

13 **THE WITNESS:** I appreciate it.

14 **MS. D'AGOSTINO:** Officer, I just have a  
15 couple questions, but do you need a break before we  
16 get started? Do you need to use the bathroom or  
17 anything?

18 **THE WITNESS:** No. I'm okay.

19

20 **EXAMINATION BY MS. D'AGOSTINO:**

21

22 **Q.** Okay. So on December 10th, 2020, you  
23 were working as a jailer for the police department,

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1 correct?

2           **A.**     Yes.

3           **Q.**     Were you permitted -- are jailers  
4 permitted to leave the facility on their shift?

5           **A.**     Not if you have a person that's under  
6 constant watch.

7           **Q.**     And on December 10th, 2020, you had  
8 someone that was under constant watch, correct?

9           **A.**     Yes.

10          **Q.**     So you wouldn't have been able to leave  
11 the facility?

12          **A.**     No. Not unless I was given relief,  
13 temporary relief.

14          **Q.**     And you didn't respond to the initial  
15 warrant arrest, did you?

16          **A.**     No, I did not.

17          **Q.**     So you weren't present when the  
18 officers took Mr. Powell to the ground?

19          **A.**     No.

20          **Q.**     At any point on the morning of December  
21 10th, 2020, did you use physical force on  
22 Mr. Powell?

23          **A.**     No.

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1           **Q.**     So you didn't use any hand strikes on  
2 Mr. Powell?

3           **A.**     No. The highest level of anything  
4 would just be the leg shackle that I had placed on  
5 him.

6           **Q.**     Okay. Did he give any indication to  
7 you that that leg shackle was too tight?

8           **A.**     No. Not that I'm aware of.

9           **Q.**     In your -- in your opinion, given  
10 Mr. Powell's demeanor, would it have been excessive  
11 for him to have been placed in a restraint chair on  
12 December 10th, 2020?

13          **A.**     Well, based on -- based on my feelings  
14 for, you know, the incident, I didn't believe that  
15 a restraint chair would be warranted, and he didn't  
16 show any continued signs that would cause me to put  
17 him in a restraint chair, no.

18          **Q.**     And at -- on the morning of December  
19 10th, 2020, why did you call EMS at 6:20?

20          **A.**     He hit his head off the wall.

21          **Q.**     Is it fair to say at the point when you  
22 perceived his behavior was escalating that you  
23 called for medical attention?

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1           **A.**     I recognized that he needed medical  
2 attention at that time.

3           **Q.**     Prior to calling for EMS at that point,  
4 did you believe that Mr. Powell needed medical  
5 attention?

6           **A.**     Not prior, no.

7           **Q.**     And were you present when EMS was  
8 called the first time during the 3:00 a.m. hour?

9           **A.**     Not for the call, just for the  
10 response.

11          **Q.**     And Mr. Powell wasn't cooperative with  
12 EMS, correct?

13          **A.**     Correct.

14          **Q.**     Even if Mr. Powell wasn't cooperative  
15 with EMS at that point, if they felt he needed  
16 additional medical attention, would he have been  
17 permitted to go with EMS?

18          **A.**     Yes.

19          **Q.**     And were you present during the  
20 six-o'clock hour when Mr. Powell was removed from  
21 the facility by James -- Jamestown Fire Department?

22          **A.**     Yes. That would have been right at the  
23 end of my shift. I believe the Faulkner Fire

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1 Department did the transport, but the Jamestown  
2 Fire Department was there for the evaluation as  
3 well.

4 **Q.** Okay. Other than the restraints that  
5 you played on Mr. -- that you placed on Mr. Powell,  
6 did you have any other physical contact with him?

7 **A.** No.

8 **Q.** Did you observe any other officer  
9 having physical contact with Mr. Powell?

10 **A.** No.

11 **MS. D'AGOSTINO:** Okay. No further  
12 questions.

13 **MR. ZACCAGNINO:** That's all I have, and  
14 everyone's probably really sick of hearing my voice  
15 all day.

16 (Deposition concluded at 4:31 p.m.)

17 \* \* \*

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**ERRATA SHEET**

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1 I hereby CERTIFY that I have read the  
2 foregoing 57 pages, and that they are a true and  
3 accurate transcript of the testimony given by me in  
4 the above entitled action on August 16, 2023.

5  
6  
7 -----  
Mark Conklin

8  
9 Sworn to before me this

10  
11 ----- day of -----, 2023.

12  
13 -----  
14 NOTARY PUBLIC.

1 STATE OF NEW YORK)

2 ss:

3 COUNTY OF ERIE)

4

5 I DO HEREBY CERTIFY as a Notary Public in and  
6 for the State of New York, that I did attend and  
7 report the foregoing deposition, which was taken  
8 down by me in a verbatim manner by means of machine  
9 shorthand. Further, that the deposition was then  
10 reduced to writing in my presence and under my  
11 direction. That the deposition was taken to be  
12 used in the foregoing entitled action. That the  
13 said deponent, before examination, was duly sworn  
14 to testify to the truth, the whole truth and  
15 nothing but the truth, relative to said action.

16

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PATRICK MCLAUGHLIN,  
Notary Public.

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